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SENSITIVE

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SUBJECT: DRAFT RESETTLEMENT REGULATIONS RAISE NGO AND DONOR CONCERNS

REF: PHNOM PENH 654 AND PREVIOUS

SENSITIVE BUT UNCLASSIFIED

¶1. (SBU) SUMMARY. On December 4, the Ministry of Land Management, Urban Planning, and Construction (MLMUPC) released a draft circular on the process for resettlement of urban poor communities, which it referred to as "illegal, temporary settlements." German development agency GTZ, which has found itself at the forefront of land sector issues since the withdrawal of the World Bank (Reftel), attempted to coordinate a joint donor response to the circular but failed to reach a compromise with other leading donors who advocated for a strong statement of concern. However, participants at a December 18 public workshop on the circular managed to lobby the MLMUPC successfully for changes. END SUMMARY.

DRAFT RESETTLEMENT CIRCULAR PUTS GERMANS IN A BIND

¶2. (SBU) On December 4, the MLMUPC issued for public comment a draft circular on the process for resettlement of urban poor communities. The MLMUPC had reportedly drafted the circular in response to a GTZ request for a standard operating procedure for resettlement of communities in eviction cases, in an attempt to avoid the types of high-profile, sometimes violent evictions seen in Cambodia in the past. (NOTE: GTZ, the largest donor involved in the Cambodian land sector, has come under increased scrutiny from human rights groups since the World Bank's (WB) withdrawal from the MLMUPC's Land Management and Administration Program (LMAP). END NOTE.)

¶3. (SBU) Although land sector analysts acknowledged the need for a resettlement framework, NGOs and the donor Technical Working Group on Land (TWG-Land) identified several concerns with the draft circular. For example, the circular defined urban poor communities as "illegal, temporary settlements", pre-judging the status of those who according to the 2001 Land Law may have legal possession claims to the land and/or building where the individuals reside. The introductory text specifically made reference to "300 of 569 illegal communities in the capital city resolved to date," a statistic related to a 2003 survey of 569 urban poor settlements in Phnom Penh, which made no determination of the settlements' legality. The draft circular also included tenure requirements for titling that were inconsistent with those stipulated for social land concessions in the Land Law.

¶4. (SBU) GTZ, the WB, and the UN Office of the High Commissioner for Human Rights (UNOHCHR) attempted to draft a joint donor submission to suggest revisions covering major concerns. However, they failed to reach a compromise on the tone of the statement prior to a December 18 MLMUPC public consultation workshop on the circular. GTZ wanted a more neutral statement of concern, while the WB/UNOHCHR (and Post) preferred a stronger statement reflecting donor concerns raised by the TWG-Land. A UNOHCHR staffer speculated to Poloff that GTZ wanted to keep the donor statement more conservative in order to avoid antagonizing the MLMUPC; GTZ feared facing the same issues encountered by the WB when it began to press the RGC on LMAP's

limitations (Reftel).

RGC OFFICIALS DEFENSIVE BUT PROMISE CHANGES

15. (SBU) Although donors failed to issue a joint statement, individual donor, civil society, and community representatives raised many of their common concerns at the December 18 public consultation workshop. MLMUPC Deputy Director General Beng Hong Socheat Khemro acknowledged that the reference to "illegal, temporary" settlements was misleading and promised to revise or remove it. He explained that the circular was meant to govern the procedures for relocating communities living illegally on state land only. Beng also noted that the "300 of 569" statistic was incorrect, adding that it was meant to be an example, as the circular would be applied nationwide, not just in Phnom Penh. On the issue of tenure required to qualify for titling, Beng said that the MLMUPC would investigate the request. Participants also raised concerns about procedures for selecting community representatives to negotiate with authorities in cases of evictions. UNOHCHR and GTZ reps met with Beng after the workshop to push for more public consultation after the draft circular is revised to ensure the requested changes are made.

COMMENT

16. (SBU) Despite some of the legitimate concerns raised by the circular, it does represent a small movement on the part of the RGC in response to repeated donor calls for a legal, transparent, and fair framework for handling the controversial issue of evictions and resettlement. The public consultation process for the draft

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circular on urban resettlement was far from perfect but serves as a rare positive example of civil society voices on land issues being heard by the RGC. Meanwhile GTZ, now stuck at the forefront of donors on land sector issues, will have to find the balance that eluded the WB between maintaining good relations with the RGC while offering constructive criticism.

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